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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

GARY BRICE McBAY,
Plaintiff,

VERSUS CIVIL ACTION NO: 1:07cv1205LG-RHW

HARRISON COUNTY, MISSISSIPPI,
by and through its Board of
Supervisors; HARRISON COUNTY
SHERIFF, George Payne, in his
official capacity; CORRECTIONS
OFFICER MORGAN THOMPSON,
acting under color of state law,
Defendants.

DEPOSITION OF REGINA L. RHODES

Taken at the offices of Brown Buchanan,
P.A., 796 Vieux Marche' Mall, Suite 1,
Biloxi, Mississippi, on Thursday,
September 17, 2009, beginning at 2:22
p.m.

APPEARANCES:

PATRICK R. BUCHANAN, ESQUIRE
MARK V. WATTS, ESQUIRE
Brown Buchanan, P.A.
796 Vieux Marche' Mall, Suite 1
Biloxi, Mississippi 39530
ATTORNEYS FOR PLAINTIFF

JOE C. GEWIN, ESQUIRE
Dukes, Dukes, Keating & Faneca, P.A.
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Gulfport, Mississippi 39501
ATTORNEY FOR GEORGE PAYNE, JR.

1 11/6/05. Okay? Does that look about right on
2 the -- what we see at the bottom of the screen --

3 A. Yes, sir.

4 Q. -- on the date and time stamp?

5 Okay. Go forward. Stop it right there.
6 Stopping it at 20:41:48. And the correction
7 officer in the lower right-hand picture, who is
8 that?

9 A. Deputy Morgan Thompson.

10 Q. And we see Deputy Thompson doing what?

11 A. He's putting on his gloves.

12 Q. Black gloves, right?

13 A. Yes, sir.

14 Q. All right. Based on your experience
15 working with Officer Thompson, when he was putting
16 on black gloves like that, what did that normally
17 mean?

18 A. That he was about to deal with an
19 inmate, possibly be in an altercation.

20 Q. All right. When you say "deal with an
21 inmate, possibly be in an altercation," what do
22 you mean?

23 A. Maybe put his hands on somebody.

24 Q. Was he about to be abusive with an
25 inmate?

1 A. Yes.

2 Q. All right. Can we roll forward? All
3 right. What I want you to do here is, if you
4 would, watch the square, the right hand -- in the
5 right-hand corner and -- yeah, can you back that
6 up for me a little bit? All right. Stop. All
7 right. We're at 20:42:33, and you're watching the
8 right-hand, lower right-hand corner square.

9 A. Yes, sir.

10 Q. And did you see -- stop it. At 20 -- it
11 looks like 20:43:14 or a little bit before. I
12 mean, obviously there's a fuzzy line at the
13 bottom, and the date and time stamp is very hard
14 to read, isn't it?

15 A. Yes, sir.

16 Q. All right. But did you see that at the
17 bottom, the legs?

18 A. Yes, sir.

19 Q. Tell us what you saw or what you believe
20 you saw.

21 A. I believe whichever inmate was standing
22 there had his feet come out from underneath him.

23 Q. All right. And what type of move would
24 a correction officer use on an inmate to take them
25 down to have his feet come out from under him like

1 A. Yes, sir.

2 Q. Go on. All right. Stop it there for a
3 minute. Can you maybe go forward just a little
4 bit to see if -- all right. Stop. It looked
5 like -- or we're at 20:50:05, and in the bottom
6 left-hand corner, is that Officer Thompson?

7 A. Yes, sir, it is.

8 Q. And we see him with an inmate, right?

9 A. Yes, sir.

10 Q. All right. Let's go forward. And stop
11 it right there. And I can't give you a Bates and
12 time stamp, I'm sorry, because of the blur on the
13 bottom. But we've gone forward a little bit, and
14 we see Officer Thompson. It looks like he's
15 putting handcuffs in the back where you hold your
16 handcuffs; is that right?

17 A. Yes, sir.

18 Q. And his hat is on his head, but his hat
19 is turned around, isn't it?

20 A. Yes, sir.

21 Q. In your experience with Officer
22 Thompson, when he turned his hat around, what did
23 that mean?

24 MR. BRENDEL:

25 Object to the form.

1 MR. BUCHANAN:

2 Q. You can answer.

3 A. That he was about to have a physical
4 altercation with an inmate.

5 Q. So the gloves on, hat backwards meant
6 that something bad was about to happen?

7 A. Yes, sir.

8 MR. BRENDDEL:

9 Object to the form.

10 MR. BUCHANAN:

11 Q. All right. Go forward. Now, I want you
12 to watch him with this inmate. And did you see
13 that?

14 A. Yes, sir.

15 Q. All right. What did you see?

16 A. It appeared that he -- he either hit him
17 or pushed him down because the inmate fell.

18 Q. Did that look like the inmate was
19 bending over to take his shoes and socks off?

20 A. No, sir.

21 MR. BRENDDEL:

22 Object to the form, speculation.

23 MR. BUCHANAN:

24 Q. Did that look like the inmate was so
25 drunk that he couldn't stand up?

1 there?

2 A. Yes, sir.

3 MR. GEWIN:

4 Object to the form.

5 MR. BUCHANAN:

6 Q. All right. Officer Thompson then
7 testifies, As I was reaching out the door and
8 looking away, that's when he caught me in the back
9 of the head, "he" being Brice.

10 Now, if you'd roll it forward from
11 20:50:03. And stop it there. It's 20:50, it
12 looks like, 40 -- or 20:50:58 on the screen. But
13 just before we stopped it, between when Officer
14 Thompson took Brice down in between what we have
15 on the screen now, 20:50:58, you saw Officer
16 Thompson's movements and how he was moving around
17 Brice?

18 A. Yes, sir.

19 MR. BRENDL:

20 Wait a second. I just want to object to
21 the taking down part. Go ahead.

22 MR. BUCHANAN:

23 Q. Based on your experience with Officer
24 Thompson, tell us what you saw in his body
25 language and, you know, your knowledge of him.

1 What did you see?

2 A. Well, he was --

3 MR. BRENDEL:

4 Object to the form. You can answer.

5 THE WITNESS:

6 He was standing over him like he was
7 taunting him.

8 MR. BUCHANAN:

9 Q. All right. Go forward at 20:50:58.

10 Well, at 20:50:58 we've seen everybody go into the
11 shower, right --

12 A. Yes, sir.

13 Q. -- Thompson, Brice, and Windham?

14 A. Yes, sir.

15 Q. Watch the door. All right. Stop it
16 there. At 20:51:24 you saw Officer Thompson step
17 into the doorway and step back, right?

18 A. Yes, sir.

19 Q. At any time between 20:50 whatever I
20 said earlier and 20:51:24, did you see Officer
21 Thompson come outside that doorway and reach
22 outside to get any clothing?

23 A. No, sir.

24 Q. All right. Move forward. Now, at
25 20:51:34-ish, Officer Thompson and Officer Windham

1 Q. That wasn't for anything else, right?

2 A. No.

3 Q. Okay. Let's move to the McBay incident.
4 You saw the video today, right?

5 A. Yes.

6 Q. Okay. At any time during the whole tape
7 that you were shown today, were you personally
8 present to witness any of that?

9 A. On the screen?

10 Q. No, no. Were you personally present in
11 the booking area to witness?

12 A. Yes.

13 Q. Okay. What part of the booking area
14 were you in?

15 A. I would assume I was behind the counter,
16 but I have no recollection, myself, of the event.

17 Q. Okay. When you say you have no
18 recollection, that means you don't know what was
19 said between Thompson and McBay --

20 A. No.

21 Q. -- correct? You don't know how Thompson
22 was acting, correct?

23 A. No. I saw from the tape his body
24 language.

25 Q. Okay. But you don't have any personal

1 recollection of how Thompson was acting that day,
2 correct?

3 A. No.

4 Q. Or how McBay was acting, right?

5 A. No.

6 Q. You don't know whether or not Mr. McBay
7 was drunk, sober or any of that, correct?

8 A. No.

9 Q. You don't know if Mr. McBay made any
10 threats towards Mr. Thompson, correct?

11 A. No, I do not know.

12 Q. Or vice versa, any threats Mr. Thompson
13 may have made toward Mr. McBay, right?

14 A. No.

15 Q. Okay. I gather that -- and you saw in
16 the tape with Mr. McBay them walk into the shower?
17 Yes?

18 A. Yes.

19 Q. Okay. You don't know -- you didn't see
20 what happened in that room, correct?

21 A. No.

22 Q. And I think you were asked some
23 questions earlier. I just want to make sure I'm
24 clear. If you do testify at trial, are you going
25 to give an opinion about what Mr. Thompson did

1 recollection.

2 Q. Do you have any independent knowledge
3 that that report was false?

4 A. No.

5 Q. Do you have any independent knowledge
6 that the Carrubba report was false?

7 A. No.

8 Q. Do you have any independent knowledge
9 that the Vanderburg report was false?

10 A. No.

11 Q. And would that be the same with the Seal
12 report, you don't have any independent knowledge
13 it was false?

14 A. No, I do not.

15 Q. Okay. I probably should have asked you
16 this at the beginning of the deposition, but are
17 you taking any medication right now?

18 A. Yes, I am.

19 Q. Can you tell me what medication you're
20 taking?

21 A. I take 300 milligrams of Wellbutrin XL,
22 generic, whatever that is; trazodone,
23 50 milligrams; and BuSpar, I've taken
24 45 milligrams today.

25 Q. Okay. Wellbutrin, that's an